



Heidi Boghosian <hboghosian@mindspring.com> on 04/05/2004 03:30:20 PM

Please respond to director@nlg.org

To: politicalcommitteestatus@fec.gov

cc:

Subject: Comments--Regulation of 501 c groups

April 5, 2004

Mai T. Dinh
Acting Assistant General Counsel
Federal Election Commission
Washington, D.C.
Dear Ms. Mai T. Dinh:

The undersigned organizations are the National Lawyers Guild and a number of its affiliates that are organized under state law and exempt from federal income tax under section 501(c) of the Internal Revenue Service Code. The National Lawyers Guild is an association of attorneys, law students and legal workers dedicated to the proposition that human rights are more important than property rights. The Lawyers Guild itself frequently engages in political speech and for nearly seventy years has devoted its efforts to representing political activists. We submit these comments in response to the Notice of Proposed Rulemaking on Political Committee Status issued by the Federal Election Commission on March 11, 2004.

We believe that wealth should not be permitted to dominate the electoral process, and applaud legitimate regulations that enhance the ability of people of average means to participate meaningfully in politics. At the same time, we are concerned that the regulation of 501(c) public education and advocacy groups would likely inhibit legitimate political expression by those groups. 501(c) groups by definition do not have influencing candidate elections as their major purpose. Federal campaign finance laws and Supreme Court precedent establish that the only activity by these groups which may be regulated is express candidate advocacy. This properly permits such groups to voice opinions on policies or officeholders without being covered by federal registration, reporting or contribution limits or other campaign finance regulations.

We do not believe that it is wise or permissible for the FEC to engage in new regulation of 501(c) groups at this juncture. Neither federal law, the Supreme Court's recent decision in *McConnell v. FEC*, nor other Supreme Court precedent authorizes the proposed changes, which would have to be accomplished, if at all, by an act of Congress. We underscore, in particular, our concern over proposed regulations that would consider nonpartisan voter registration and mobilization ("get out the vote" activity) in determining whether a group has as its major purpose to influence candidate elections. In our view this carries the substantial danger of stifling legitimate expression by non-partisan, non-profit organizations whose primary purpose is not to influence elections.

We are also deeply concerned about the effort in the proposed regulations to include the "major purpose" language in the definition of groups that would qualify as Political Action Committees. The proposed inclusion of all groups that have as "a" major purpose (rather than as "the" major purpose, as required by the Supreme Court in *Buckley v. Valeo*) influencing the outcome of elections, would violate the freedom of private associations to comment on public issues, protected under the First Amendment. We are concerned that

this proposed addition to the regulations would chill protected speech, particularly criticism of incumbent office holders who happen to be running for re-election.

Given other recent actions the government has taken there is a serious danger that the proposed regulations could serve a narrow and inappropriate political agenda. We are concerned about a pattern of efforts to discourage dissent in America and criticism of the current President in particular. These steps have included the passage of the misnamed USA PATRIOT Act, the abolition of the Levi Guidelines in May 2002, by Attorney General Ashcroft, permitting infiltration of and spying upon domestic political groups, the limitation by the Secret Service of the rights of peaceful protestors critical of the President by permitting demonstrations only in so-called "free speech zones" far from the actual venue of presidential appearances, and numerous other administrative and executive orders.

The undersigned organizations urge the Federal Election Commission to reject the proposed amendments to the regulations.

Respectfully submitted,

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